

Message Text

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ACTION EUR-25

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SUBJECT : MEETING OF WP11 ON INTERNATIONAL ENTERPRISES OF
RESTRICTIVE BUSINESS PRACTICES COMMITTEE, OCTOBER 18, 1973.

1. SUMMARY : WP11 AGREED THAT ATTEMPTS TO DRAFT GUIDING
PRINCIPLES FOR INTERNATIONAL ENTERPRISES IN THE FIELD OF
RESTRICTIVE BUSINESS PRACTICES SHOULD BE POSTPONED IN
FAVOR OF ADDITIONAL EMPIRICAL STUDIES TO DEFINE THE ISSUES.
IT WILL DEVELOP A QUESTIONNAIRE FOR CIRCULATION TO MEMBER
GOVERNMENTS. ACTION REQUESTED : DESPATCH OF SUGGESTIONS FOR
QUESTIONNAIRE IN ACCORDANCE WITH PARA 8 BELOW. END SUMMARY .

2. THE SECRETARIAT LED OFF MEETING BY REPORTING ON
DEVELOPMENTS WITHIN OECD PERTAINING TO INTERNATIONAL
ENTERPRISES, IN PARTICULAR WORK BEING UNDERTAKEN UNDERS
AUSPICES EXECUTIVE COMMITTEE IN SPECIAL SESSION (XCSS).
THOUGH SECRETARIAT GAVE CLEAR IMPRESSION THAT FUTURE
DECISIONS OF XCSS WOULD DETERMINE SCOPE AND CONTENT OF
WORK OF WP11, IT ALSO SUGGESTED THAT SEC GEN AND XCSS WOULD
PREFER THAT WP11 NOT SUSPEND ITS WORK TO WAIT FOR MORE
SPECIFIC GUIDANCE.

3. MOST OF WP'S DISCUSSION REFLECTED A LACK OF CONSENSUS
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AS TO THE OBJECTIVES OF THE WORKING PARTY. ONLY TWO

COUNTRIES (CANADA AND JAPAN) SEEMED FIRMLY COMMITTED TO THE LONG-TERM OBJECTIVE OF GUIDING PRINCIPLES ALONG THE LINES OF THOSE DESCRIBED IN DAF/RBP/WP11/25. THERE APPEARED TO BE A GENERAL CONSENSUS THAT ATTEMPTS TO DRAFT GUIDING PRINCIPLES SHOULD BE POSTPONED IN FAVOR OF EMPIRICAL STUDIES TO DEFINE THE ISSUES. THERE WAS ALSO AGREEMENT THAT A QUESTIONNAIRE FOR THE MEMBER COUNTRIES WOULD BE APPROPRIATE TO COLLECT LEGAL AND ECONOMIC DATA. THERE WAS THEN CONSIDERABLE DISCUSSION OF WHAT THE CONTENT OF THE QUESTIONNAIRE MIGHT BE.

4. THE GERMAN DELEGATE (GUNTHER) SUGGESTED THAT THERE EXISTED A "COINCIDENCE OF OPINION" THAT WHILE MULTINATIONAL ENTERPRISES WERE SUBJECT TO THE ANTITRUST LEGISLATION OF COUNTRIES IN WHICH THEY CARRIED ON BUSINESS, NATIONAL LAWS DID NOT REACH TO INTERNAL DIRECTIVES OF MULTINATIONALS (INTRA-ENTERPRISE AGREEMENTS) AND A GREATER MEASURE OF INTERNATIONAL COOPERATION WAS REQUIRED TO DEAL WITH THE ANTICOMPETITIVE EFFECTS OF INTERNAL DECISION-MAKING. HOWEVER, THERE WERE INSUFFICIENT MATERIALS TO ESTABLISH A BASIS FOR ANY RECOMMENDATIONS. HIS CONCERN WAS TO GET MORE FACTS AS TO THE BEHAVIOR OF MULTINATIONALS WHICH MIGHT CREATE THE BASIS FOR SOME FORM OF INTERNATIONAL COOPERATION. HE FELT THAT THIS GOAL WAS FAR MORE IMPORTANT THAN NATIONAL CODES OF GOOD BEHAVIOR. THE EC COMMISSION REPRESENTATIVE APPEARED TO HAVE A SIMILAR VIEW.

5. THE BRITISH DELEGATE (GRIBBIN) SUGGESTED A SERIES OF SPECIFIC QUESTIONS FOR CONSIDERATION BY THE WORKING PARTY. HE WAS CONCERNED TO ESTABLISH THE PROPORTION OF FOREIGN OWNERSHIP IN CONCENTRATED INDUSTRIES IN VARIOUS COUNTRIES AND TO DOCUMENT THE NATIONAL AND INTERNATIONAL STRUCTURE OF CAREFULLY SELECTED CONCENTRATED INDUSTRIES IN INTERNATIONAL TRADE. THIS WOULD ESTABLISH WHETHER WE ARE DEALING WITH AN INTERNATIONAL PROBLEM OR A SERIES OF SEPARATE NATIONAL PROBLEMS. HE WOULD THEN INVESTIGATE WHETHER THE RESTRICTIVE BUSINESS PRACTICES OF MULTINATIONAL ENTERPRISES ARE DIFFERENT FROM THOSE OF NATIONAL ENTERPRISES AND WHETHER THE MULTINATIONAL CORPORATION BEHAVES DIFFERENTLY IN ITS PARENT COUNTRY THAN IN COUNTRIES IN WHICH IT CARRIES ON BUSINESS THROUGH

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SUBSIDIARIES.

6. THE CANADIAN DELEGATE (MORROW) EXPRESSED A SPECIAL INTEREST IN THE QUESTIONS CONCERNING THE DEGREE OF FOREIGN OWNERSHIP OF CONCENTRATED INDUSTRIES. IT APPEARED THAT CANADA, JAPAN, AND THE UNITED KINGDOM WERE MOST INTERESTED IN THE FOREIGN OWNERSHIP QUESTION (INVESTMENT PATTERNS) AND LESS SO IN RESTRICTIVE BUSINESS PRACTICES. THE

GERMAN, SWEDISH, AND U.S. DELEGATIONS WERE PRIMARILY CONCERNED WITH RESTRICTIVE BUSINESS PRACTICES AND TRIED TO TURN THE DISCUSSION AWAY FROM THE FOREIGN OWNERSHIP QUESTION.

7. THE U.S. DELEGATE (WILSON) STATED THAT WE STILL HAD NOT DEFINED THE PROBLEMS AND THAT THE SAME PROBLEMS MIGHT NOT BE SHARED BY ALL COUNTRIES. ONE PROBLEM FOR THE UNITED STATES WAS THE DIFFICULTY IN OBTAINING INFORMATION LOCATED IN FOREIGN COUNTRIES. ON A MORE THEORETICAL NOTE, HE SUGGESTED THAT ONE ISSUE WHICH MIGHT BE EXPLORED IS THE NET GAINS OR LOSSES FOR INTERNATIONAL TRADE AS A WHOLE UNDER A SYSTEM IN WHICH SUBSIDIARIES OF MULTINATIONALS ARE GENERALLY PROHIBITED FROM COMPETING WITH EACH OTHER. HE INDICATED A LACK OF EMPIRICAL DATA ON WHICH RATIONAL PREDICTIONS COULD BE BASED. HE EMPHASIZED THE U.S. VIEW THAT ANY QUESTIONNAIRE SHOULD BE FOCUSED ON ANTITRUST QUESTIONS.

8. THE VIGOROUS ARGUMENTS OF THE GERMAN AND U.S. DELEGATIONS FOR AN ANTITRUST ORIENTATION MAY HAVE HAD GREATER APPEAL TO THE SEVERAL DELEGATES THAN THE INVESTMENT-FOREIGN OWNERSHIP ANALYSIS SUGGESTED BY CANADA AND THE U.K. THIS WILL BE CLEARER AT THE NEXT MEETING OF THE WORKING PARTY (MARCH 28). WHICH WILL BE DEVOTED TO DEVELOPMENT OF THE QUESTIONNAIRE. A FIRST DRAFT WILL BE PREPARED BY THE CANADIAN DELEGATE ON THE BASIS OF COMMENTS FURNISHED HIM BY THE OTHER DELEGATES. COMMENTS ARE TO BE FORWARDED BY DECEMBER 1. 1973.BROWN

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